

Under the Telecommunications Excise Tax Act, gross charges do not include charges for customer equipment, including such equipment that is leased or rented by the customer from any source, wherein such charges are disaggregated and separately identified from other charges. See 86 Ill. Adm. Code 495.100. (This is a GIL).

July 20, 2000

Dear Xxxxx:

This letter is in response to your letter dated April 28, 2000. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120(b) and (c), which can be found on the Department's Web site at www.revenue.state.il.us/legalinformation/regs/part1200.

In your letter, you have stated and made inquiry as follows:

COMPANY is a Competitive local Exchange carrier (CLEC) providing NAME Internet access to business customers using Digital Subscriber Line (DSL) technology. The purpose of this letter is to request a ruling from your state concerning the taxability of the following three components of our customer billing:

- ◆ Monthly Recurring Customer charges (such as Access Charges)
- ◆ Labor Charges for one-time Installation (this charge involves configuring equipment, running and terminating cables and a small amount of router programming) of Customer Service and
- ◆ Customer Equipment (lease or rental)

Please note that we are not a dial-up Internet provider.

Feel free to contact me at #### if there are any questions concerning this request. My email address is ####. Your prompt response by fax to #### will be appreciated. Thank you so much your assistance in this matter.

The Telecommunications Excise Tax is imposed upon the act or privilege of originating or receiving intrastate or interstate telecommunications in Illinois at the rate of 7% of the gross charges for such telecommunications purchased at retail from retailers. 35 ILCS 630/3 (1998 State Bar Edition). This tax must be collected from persons by "retailers maintaining a place of business in Illinois." 35 ILCS 630/5 (1998 State Bar Edition). "Gross charges" means the amount paid for the act or privilege of originating or receiving telecommunications in this State and for all services and equipment provided in

connection therewith by a retailer, valued in money whether paid in money or otherwise, including cash, credits, services and property of every kind or nature, and shall be determined without any deduction on account of the cost of such telecommunications, the cost of materials used, labor or service costs or any other expense whatsoever. However, gross charges do not include charges for customer equipment, including such equipment that is leased or rented by the customer from any source, wherein such charges are disaggregated and separately identified from other charges in the books and records of the retailer. See 86 Ill. Adm. Code 495.100, enclosed.

"Telecommunications", in addition to the meaning ordinarily and popularly ascribed to it, includes, without limitation, messages or information transmitted through use of local, toll and wide area telephone service; private line services; channel services; telegraph services; teletypewriter; computer exchange services; cellular mobile telecommunications service; specialized mobile radio; stationary two way radio; paging service; or any other form of mobile and portable one-way or two-way communications; or any other transmission of messages or information by electronic or similar means, between or among points by wire, cable, fiber-optics, laser, microwave, radio, satellite or similar facilities. Carrier access charges, right of access charges, charges for use of inter-company facilities, and all telecommunications resold in the subsequent provision of, used as a component of, or integrated into end-to-end telecommunications service shall be non-taxable as sales for resale. 35 ILCS 630/2(c) (1998 State Bar Edition).

"Telecommunications" does not include "charges for the storage of data or information for subsequent retrieval or the processing of data or information intended to change its form or content" or "value-added services in which computer processing applications are used to act on the form, content, code and protocol of the information for purposes other than transmission." See 35 ILCS 630/2(a) and 2(c). If telecommunications retailers provide both such services, the charges for each must be disaggregated and separately stated from telecommunications charges in the books and records of the retailers. If these charges are not thus disaggregated, the entire charge is taxable as a sale of telecommunications.

Generally, persons that provide subscribers access to the internet and who do not, as part of that service, charge subscribers for the line or other transmission charges that are used to obtain access to the internet are not considered to be telecommunications retailers from these activities. It is our general understanding that most internet access providers do not, as part of their billing, charge subscribers for such line charges, but instead, pay all transmission costs to their telecommunications providers. If companies provide telecommunications to such end-users (e.g., to the internet access providers described immediately above) and are also "retailers maintaining a place of business in this State," they are required to collect the tax from such internet access providers and remit it to the Department. If, however, the internet access providers charge subscribers for line or other transmission charges, they should provide their telecommunications providers with Certificates of Resale and should themselves collect and remit tax.

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I hope this information is helpful. The Department of Revenue maintains a Web site, which can be accessed at www.revenue.state.il.us. If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of the enclosed copy of Section 1200.110(b).

Very truly yours,

Gina Roccaforte
Associate Counsel

GR:msk

Enc.